
SCOTTISH STATUTORY INSTRUMENTS

2020 No. 437

**The Town and Country Planning (General
Permitted Development and Use Classes)
(Scotland) Amendment Order 2020**

Electronic communications

16. In Part 20 (development by electronic communications code operators) of schedule 1 in class 67—

(a) in sub-paragraph (2)(a) after “small cell system” insert “or a Regulation 2020/1070 small cell system”,

(b) for sub-paragraph (2)(b) substitute—

“**(b)** would be located in a conservation area and—

(i) would be on a building or other structure (other than a dwellinghouse or a building within the curtilage of a dwellinghouse) and would consist of—

(aa) the installation of a small cell system or a Regulation 2020/1070 small cell system and would result in there being no more than two small cell systems or Regulation 2020/1070 small cell systems on the building or other structure,

(bb) the replacement or alteration of a small cell system or a Regulation 2020/1070 small cell system and would result in there being no more than two small cell systems or Regulation 2020/1070 small cell systems on the building or other structure or, if greater, the number of small cell systems or Regulation 2020/1070 small cell systems present on the building or other structure before alteration or replacement of the small cell system or a Regulation 2020/1070 small cell system, or

(ii) would be on a dwellinghouse or within the curtilage of a dwellinghouse and would consist of—

(aa) the installation of a small cell system or a Regulation 2020/1070 small cell system and the number of small cell systems or Regulation 2020/1070 small cell systems on the dwellinghouse and within its curtilage when added together would not exceed two,

(bb) the replacement or alteration of a small cell system or a Regulation 2020/1070 small cell system and the number of small cell systems or Regulation 2020/1070 small cell systems on the dwellinghouse and within its curtilage when added together would not exceed two or, if greater, the number of small cell systems or Regulation 2020/1070 small cell systems present before alteration or replacement of the small cell system or Regulation 2020/1070 small cell system,”

- (c) in sub-paragraph (2)(c) for “small antenna” substitute “small cell system or a Regulation 2020/1070 small cell system”,
- (d) after sub-paragraph (2)(g) insert—
 - “(ga) would consist of the construction, installation, alteration or replacement of ground based equipment housing which would not exceed 2.5 cubic metres in volume,
 - (gb) would consist of the construction, installation, alteration or replacement on a building of equipment housing which would not exceed 2.5 cubic metres in volume,
 - (gc) would be permitted by virtue of sub-paragraph (10) or would be ancillary to such development,
 - (gd) would be development permitted by virtue of sub-paragraph (11) or (12) or would be ancillary to such development,
 - (ge) would consist of the construction or installation of apparatus under land and would not be located in a historic battlefield or World Heritage Site,”
- (e) in sub-paragraph (3)(a) for “25” substitute “30”,
- (f) for sub-paragraph (4)(a) substitute—
 - “(a) Development is not permitted by sub-paragraph (1)(a) if it would consist of the alteration or replacement of a ground based mast—
 - (i) not exceeding 30 metres in height where the height of the mast as altered or replaced would exceed a figure by adding 50% to the height of the original mast,
 - (ii) exceeding 30 metres in height where the height of the mast as altered or replaced would exceed 50 metres,
 - (iii) exceeding 50 metres in height where the height of the mast as altered or replaced would exceed a figure calculated by adding 20% to the height of the original mast,
 - (iv) in the case of an increase in the width of a mast, the increase would exceed 2 metres or, if greater, one half of the width of the original mast,
 - (v) in the case of the replacement of a mast, the replacement mast would be situated more than 6 metres from the location of the original mast.”,
- (g) in sub-paragraph (11)—
 - (i) for “small antenna” substitute “Regulation 2020/1070 small cell system”,
 - (ii) in each of head (a)(i), (ii)(aa) and (bb)—
 - (aa) for “0.9” substitute “1.3”, and
 - (bb) for “4.5” substitute “10”,
 - (iii) in both head (b)(i) and (ii) for “4” substitute “5”,
- (h) in sub-paragraph (12) for “small antenna” substitute “Regulation 2020/1070 small cell system”,
- (i) for sub-paragraph (13) and the related cross-heading substitute—

“Development not permitted: small cell systems on dwellinghouses

(13) Development is not permitted by sub-paragraph (1)(a) if it would consist of the construction, installation, alteration or replacement of apparatus on a dwellinghouse or within the curtilage of a dwellinghouse unless the apparatus would be a small cell system and—

- (a) the number of small cell systems on the dwellinghouse or within the curtilage of the dwellinghouse would not, when added together, exceed 4, and
- (b) the highest part of the small cell system would not be higher than the highest part of the roof of the dwellinghouse on which it would be located.”,
- (j) in sub-paragraph (15)(a) for “or (23)” substitute “, (23) or (23B)”,
- (k) after sub-paragraph (23) insert—

“(23A) Before beginning development to which this sub-paragraph applies the developer must apply to the planning authority for a determination as to whether the prior approval of the authority will be required to the siting and visual impacts of the proposed development,

- (a) this sub-paragraph applies to development described in sub-paragraph (1)(a) or (c) which is permitted by virtue of sub-paragraph (2)(gc) and which would be located in—
 - (i) a conservation area,
 - (ii) a historic garden or designed landscape,
 - (iii) within the setting of a category A listed building or a schedule monument,
- (b) the application is to be accompanied by—
 - (i) a written description of the proposed development,
 - (ii) details of the design and the materials to be used,
 - (iii) a plan indicating the location,
 - (iv) the dimensions of the proposed development,
 - (v) any fee required to be paid,
- (c) the development is not to be commenced before the occurrence of one of the following—
 - (i) the receipt by the applicant from the planning authority of a written notice of their determination that such prior approval is not required,
 - (ii) where the planning authority gives the applicant notice within 28 days following the date of receiving the application of their determination that such prior approval is required, the giving of such approval,
 - (iii) the expiry of 28 days following the date on which the application was received by the planning authority without the planning authority making any determination as to whether such approval is required or notifying the applicant of their determination,
- (d) the development must, except to the extent that the planning authority otherwise agree in writing, be carried out—
 - (i) where prior approval is required, in accordance with the details approved, or
 - (ii) where prior approval is not required, in accordance with the details submitted with the application,
- (e) the development is to be carried out—
 - (i) where approval has been given by the planning authority, within a period of 3 years from the date on which approval was given,
 - (ii) in any other case, within a period of 3 years from the date on which the planning authority were given the information referred to in head (b).

(23B) Before beginning development to which this sub-paragraph applies the developer must apply to the planning authority for a determination as to whether the prior approval of the authority will be required to the siting, design and appearance of the proposed development,

- (a) this sub-paragraph applies to development described in sub-paragraph (1)(a) or (c) which is permitted by virtue of sub-paragraph (2)(gd) and which would be located in—
 - (i) a conservation area,
 - (ii) a historic garden or designed landscape,
 - (iii) the setting of a category A listed building or a schedule monument,
 - (iv) a historic battlefield,
 - (v) a World Heritage Site,
- (b) the application is to be accompanied by—
 - (i) a written description of the proposed development,
 - (ii) details of the design and the materials to be used,
 - (iii) a plan indicating the location,
 - (iv) the dimensions of the proposed development,
 - (v) any fee required to be paid,
- (c) the development is not to be commenced before the occurrence of one of the following—
 - (i) the receipt by the applicant from the planning authority of a written notice of their determination that such prior approval is not required,
 - (ii) where the planning authority gives the applicant notice within 28 days following the date of receiving the application of their determination that such prior approval is required, the giving of such approval,
 - (iii) the expiry of 28 days following the date on which the application was received by the planning authority without the planning authority making any determination as to whether such approval is required or notifying the applicant of their determination,
- (d) the development must, except to the extent that the planning authority otherwise agree in writing, be carried out—
 - (i) where prior approval is required, in accordance with the details approved, or
 - (ii) where prior approval is not required, in accordance with the details submitted with the application,
- (e) the development is to be carried out—
 - (i) where approval has been given by the planning authority, within a period of 3 years from the date on which approval was given,
 - (ii) in any other case, within a period of 3 years from the date on which the planning authority were given the information referred to in head (b).

(23C) Before beginning development to which this sub-paragraph applies the developer must apply to the planning authority for a determination as to whether the prior approval of the authority will be required in respect of the impact of the proposed development on an area listed in head (a),

- (a) this sub-paragraph applies to development described in sub-paragraph (1)(a) or (c) which is permitted by virtue of sub-paragraph (2)(ge) and which would be located in—
 - (i) a conservation area,
 - (ii) a historic garden or designed landscape,
 - (iii) the curtilage of a category A listed building,
 - (iv) a site of archaeological interest,
 - (b) the application is to be accompanied by—
 - (i) a written description of the proposed development,
 - (ii) details of the design and the materials to be used,
 - (iii) a plan indicating the location,
 - (iv) the dimensions of the proposed development,
 - (v) any fee required to be paid,
 - (c) the development is not to be commenced before the occurrence of one of the following—
 - (i) the receipt by the applicant from the planning authority of a written notice of their determination that such prior approval is not required,
 - (ii) where the planning authority gives the applicant notice within 28 days following the date of receiving the application of their determination that such prior approval is required, the giving of such approval,
 - (iii) the expiry of 28 days following the date on which the application was received by the planning authority without the planning authority making any determination as to whether such approval is required or notifying the applicant of their determination,
 - (d) the development must, except to the extent that the planning authority otherwise agree in writing, be carried out—
 - (i) where prior approval is required, in accordance with the details approved, or
 - (ii) where prior approval is not required, in accordance with the details submitted with the application,
 - (e) the development is to be carried out—
 - (i) where approval has been given by the planning authority, within a period of 3 years from the date on which approval was given,
 - (ii) in any other case, within a period of 3 years from the date on which the planning authority were given the information referred to in head (b).”
- (l) in sub-paragraph (24) (interpretation)—
- (i) omit the definition of “small antenna”,
 - (ii) for the definition of “small cell system” substitute—
 - ““small cell system” means an antenna which may be described as a femtocell, picocell, metrocell or microcell antenna, together with any ancillary apparatus which—
 - (a) operates on a point to multi-point basis or area basis in connection with an electronic communications service,

- (b) has, in two-dimensional measurement, a surface area of 5,000 square centimetres or less, and
 - (c) has a volume of 50,000 cubic centimetres or less,
- but does not include Regulation 2020/1070 small cell systems, and any calculation for the purposes of heads (b) and (c) is to include any power supply unit or casing, but is not to include any mounting, fixing, bracket or other support structure.”.